

BUILDING (INTERIM) REGULATIONS 2005

From 14 June 2005, the *Building (Interim) Regulations 2005* will come into effect, replacing the 1994 regulations. The interim regulations will be in place for the next 12 months while the Building Commission works with government and industry to develop a more comprehensive set of regulations to guide the industry over the next decade.

Key features of the *Building (Interim) Regulations 2005* include:

- Owner-builders must obtain a Certificate of Consent from the Building Practitioners Board in order to obtain a building permit to carry out domestic building work valued over \$12,000.
- Owner-builders may only obtain building permits for a single dwelling and associated work on a single property in any three-year period and must reside and continue to reside, or intend to reside in the single dwelling.
- Retrospective fire sprinkler systems are to be fitted in all shared accommodation facilities.
- Building permit requirements to be based on scope of building work rather than the previous \$5,000 limit, implying the need for some garages, carports and pergolas to have a permit.
- Re-stumpers must be registered regardless of the cost of work.
- Mandatory requirements for registered building practitioners to display contact signage on all building sites.

Information can be found at
www.buildingcommission.com.au

BY THE HAIRS ON MY CHINNY CHIN CHIN!

We all know that when the big, bad wolf huffed and puffed at the house of straw it fell down, but do you know why?

Ring the CSIRO—they can tell you. At Highett in Melbourne they've just built a brand new suburban house and blown it down. They did a job and a half on it too. Number 12 Any Suburban Street was hit by an earthquake and a cyclone.

The people who played God can now tell you how every component of the structure, right down to the nails, either failed or hung together. Why go to the bother when we all know that when the little pigs moved to their brick house everything was fine? The belief is that a whole range of new building materials, carbon fibre, waste plastic, even straw might turn out to be a whole lot better than brick.

In earthquake-prone areas, we could soon see plastic houses or houses on suspension rather than a foundation. Expect new techniques too, like friction dampeners on joists to allow them to move. The new technology will be able to demonstrate very quickly how any new building material relates to local or international building codes.

Children of the 21st Century might get a new chapter to an old story. After the wiley old wolf brings in heavy earth moving equipment designed to crack open that brick house, by the hairs on his chinny chin chin, our heroes scamper off to a nice new CSIRO-designed house capable of withstanding American or Japanese earthquakes, Taiwanese typhoons or home-grown cyclones. I don't suppose there'll be a chimney but we'll work out a way of getting him into the pot!

BUILDING PRACTITIONER REGULATIONS

Review of the categories and classes of building practitioner registration:

The Building Commission and Building Advisory Council are undertaking a review of the categories and classes of building practitioner registration.

After extensive consultation with representatives from consumer groups and key industry associations, a number of matters are being considered as potential areas for amendment or inclusion into a future practitioner registration system. The Commission and the Council acknowledge that there must be a balance between any additional requirements and the consumer benefits the revisions may achieve. Further assessment is currently being undertaken.

Please direct any enquiries to Roger Frith on (03) 9285 6414 or Judith McCann on (03) 9285 6489.

CHIEF JUSTICE DEFENDS EXPERT WITNESSES

"Welcome to the new millennium," said Justice Abadee, formerly of the Supreme Court of NSW in a speech delivered on expert witnesses some four years ago.¹ He predicted the era of new reforms and new rules on expert witnesses would be characterised by:

"an economy in the use of experts, and a less adversarial expert culture," where those "who wish to be experts will need to adjust to new cultural thinking. They will need to be educated and re-educated. Training of experts will be required in the new ways in the discharge of expert obligations in the new orders in civil litigation, if they are to participate in it."

Ladies and Gentlemen: congratulations. If you are or intend to be an expert witness in court, your presence here tonight means that you fulfil the criterion of engaging in continuing professional development in this era of change in expert witness culture. Your enthusiasm and flexibility in embracing this changing culture probably means that you are well on the way to becoming the type of expert witness that the justice system values.

I plan to structure this brief presentation by swiftly covering the 5 basic rules of expert evidence as found in the common law and set out in Freckleton & Selby's enormously helpful loose-leaf service on Expert Witnesses. I hope then to turn to the new Practice Direction emitted from the ACT Supreme Court in January this year, which is identical in terms to that contained in the NSW Supreme Court rules - and how that new Practice Direction spells out a couple of these 5 basic rules. Finally I shall draw some conclusions as to what the new Practice Direction means for expert witnesses, and how judges and rule makers envisage a more equitable expert witness culture. Firstly, it may be helpful to distinguish the expert witness from the ordinary lay witness:

Expert witnesses are extended a privilege not permitted lay witnesses for the most part - that of giving evidence in the form of opinions and inferences. Difficulties exist in relation to the distinction between "fact" and "opinion":²

However this role is developing and: As Dawson J termed it in 1989, "[T]he modern attitude towards expert evidence is, perhaps, less exclusionary than in the past." ...The result is that greater numbers of expert witnesses are being permitted to testify on a broader base of subject matter than has hitherto been permitted. The change means that a more conceptually coherent approach is being developed by the common law to those rules of expert evidence which are being strictly enforced and to those which are being interpreted with liberality. In Australia this process has been furthered by the passage of the Evidence Act (Cth)...³

It is true that for a long time, there has been a disquiet expressed by judges who had real problems dealing with expert witnesses. Judges felt that expert witnesses would strut into courts with their bewildering array of ivory tower qualifications and technical jargon and, as hired guns for one of the two parties, would deliver what was as favourable to one side as it was profitable to the expert witness. These opinions would "usurp" the role of a jury made up of ordinary members of the community. Or the jurors would be overwhelmed by the scientific language used by the expert witness - and even more overwhelmed if one expert conflicted with another. Who to believe? And what weight to give to each opinion? There was a concern that the wealthier

litigant would rotate through the witness box expert after expert in an effort to unduly lengthen the process of litigation without really being of assistance to judge or jury.

Five Rules of Expert Evidence

Thus, over the course of the last century a neat set of five rules of expert evidence have been extracted from developments in the common law and expounded upon by Freckleton & Selby - and further information on each of these rules in the loose-leaf service a copy of which can be found in the Supreme Court Library.

In short form the rules are:

1. The Expertise rule
2. The Common Knowledge rule
3. The Area of Expertise rule
4. The Ultimate Issue rule; and
5. The Basis rule

1. Expertise Rule

First of all, the expertise rule - that experts must be experts. If you are called in as an expert witness - and expert witnesses these days can be requested to give evidence upon innumerable subjects - you have to be a properly designated expert. This does not necessarily mean that you have to be the head honcho of a department, or even need be a senior practitioner in your field. But rather, your expertise depends upon the sufficiency and relevance of your specialised skills rather than any strict definition or set of criteria. Here you can give evidence in the form of facts like experiments you have conducted, or objects you have observed. You need not be leading/senior practitioner in field - but you probably cannot give your own opinion about things you have not observed unless you are sufficiently skilled to be accounted an expert.

Now, over the years, this rule has been applied with an increasing rigour. Courts have been expressing doubts about the evidence of experts in an effort to make them adhere to their own area of specialised skill. Freckleton & Selby provide a lovely list of where judges have drawn lines in the sand over which the particular expert has been held not to be allowed to even poke a wrinkled toe across. One such example comes from a case called *R v Broughton*⁴ where biologists were held not to be experts on blood spatter patterns.

Independence

Another concern that falls under the heading of the expertise rule is the independence of experts. I can assure you that judges do give sincere considerations as to the degree to which the expert is speaking as an independent person. Let me make clear, however, that it does not preclude the expert from being 100% disinterested in the resolution of the case.

However the interest in the case may be confined to a specific category, such as the technologist who has developed a piece of equipment, and is used as an expert to give evidence about the use of the equipment. It has been accepted that some experts may stake their own reputation upon the reliability of the equipment they have developed - and their evidence may be admitted but be "very closely scrutinised indeed".

Unrepresentativeness

Next I will turn to the concern that expert witnesses may be "unrepresentative" as an expert among his or her field of experts. What if you get an expert witness who has years of experience in a certain field and may have potential to beam clear rays of light onto the particular matter he or she has been asked to give evidence about? However the witness has not been published or had his or her views critically analysed by peers. Or what if your expert witness' views have actually been discredited by the mainstream? An English case of *R v Robb* may symbolise the divergence of the English courts from those in Australia. This is a case where an "expert" witness of audiology, whose methods of acoustic analysis, admitted he had not been rigorously tested, and had even been subject to criticism by his peers. However his evidence was given the weight of an expert in England. He - or rather the party who paid him - would be unlikely to receive the same kind of luck in Australia.

Expert Reports

Another concern judges have is the way reports tendered to support one party's case may, at a glance, look like an "Expert Report". Producing a report with a nice letterhead for the court could indeed lead to the inference that you are an expert in the field of your report. However a decision of the Full Court of the Federal Court in 2000, (and this was around the time that it made its practice direction on expert witnesses - which is much the same as that of the Supreme Court - but more about that a little later) in the case of *Ocean Marine Mutual Insurance Association (Europe) OV v. Jetopay Pty Ltd*⁵ said, that it is "not permissible to conclude from the following alone that an author of a report has any specialised knowledge except to the extent that the report states... what that knowledge is." The factors in this case which were ultimately found insufficient were:

- the factual context in which the report was produced;
- the description and designation of the author of the report;
- the contents and language of the report and the nature of the assertions made in it;
- the form of the report; and
- the expressed qualifications of the person making it as set out in the report.

Yes, expert reports, the Federal Court found, need to be supported by more than this: "There must be specific evidence as to specialised knowledge of the person in relation to that subject and as to the training, study or experience upon which that specialised knowledge is based."⁶

The court conceded that a report in which an opinion is recorded should expose the reasoning of its author in a way that would demonstrate that the opinion is based on particular specialised knowledge. Similarly, opinion evidence given orally should be shown, by exposure of the reasoning process, to be based on relevant specialised knowledge.

Factors of Persuasiveness

Indeed, an empirical study of Australian judicial perspectives on expert evidence has shown that jurors and judges alike find the most persuasive element of the expert witness is the ability to

give a clear explanation.⁷ Never underestimate that when you are breaking down technical jargon and concepts into something understandable for those not trained in the discipline, your work is much appreciated by the court.

Interestingly, the next most persuasive factor after clarity of explanation was impartiality. By way of contrast and for your interest, the least most persuasive factors were appearance, qualifications and experience as an expert witness. So it doesn't matter how beautiful (or nerdy-looking) you are, it doesn't matter how many letters you have after your name, nor how many times you have been in the witness box - if you can give the court a clear and impartial explanation you will have fulfilled your duty to the court and to the parties in the matter.

Quantity Surveyors as Experts

The loose-leaf service on Expert Witnesses has a special section on Quantity Surveyors as Experts. I gather there are quite a few of you here tonight, because Quantity Surveyors have long been recognised by the courts as experts, but not, I must emphasise, beyond the proper parameters of surveying.

Einstein J got very excited about Quantity Surveyors in a particular case of his in the NSW Supreme Court earlier this year and he went about outlining the specialised training that Quantity Surveyors have in his judgment.⁸ Thus as a Quantity Surveyor, you may be called upon to give evidence because you have:

"if you can give the court a clear and impartial explanation you will have fulfilled your duty to the court and to the parties in the matter"

- Quantity surveying expertise;
- The ability to read and understand architectural and building design drawings;
- Construction and management of construction projects, including the overseeing of the construction process;
- Practice in the making of arrangements for consultant specialists to prepare documents; and the making of arrangements for the calling and letting of tenders.

Thus he held that the witness could not assess and determine with precision how the various disciplines and works could be managed to create an "as built" construction, in spite of the fact that his construction and management experience had permitted him to gain some general knowledge of some such processes.

However Einstein J took out his jetsam and drew a line on the sand over which his quantity surveying witness was not permitted to step. This Quantity Surveyor was not an architect so was precluded from expressing an opinion as to the standards required of an architect in terms of the discharge of professional duties. Nor could he give evidence as an engineer as he did not have structural steel detailing expertise.

Nevertheless the judge did grant a little leeway to the witness. He acknowledged that the witness could read and understand what architectural and building design and engineering drawings meant so that, while he did not have the specialised knowledge on the basis of which to express opinions as to what precisely was the further detail required to be in the drawings before tender or construction, he did have the specialised knowledge on the basis of which to be in a position substantially to express an opinion as to deficiencies in terms of "certain types of lack of clarity in those drawings or in terms of certain types of incompleteness in those drawings": at [17].

2. Common Knowledge

Let us move along to the next rule of expert evidence, and the one you have all been waiting for: The common knowledge rule.

Traditional Formulation

The traditional formulation of this has meant that courts would refuse to hear evidence which is known to be common knowledge, or "which may be competently approached" or dealt with by the lay tribunal of fact. In fact, it is one of the most common ways that judges can circumscribe evidence.

Freckleton gives several interesting examples of where the court has held evidence inadmissible due to the common knowledge rule:

- Allowing water to lie on a steel platform would increase the risk of slipping: *Australian Oil Refineries Co Ltd v Courne* (1980) 54 ALJR 192
- A person's style or manner of speaking on a particular occasion may well be quite different from his or her manner or style of speaking on another occasion well removed in point of time: *R v Tilley* [1985] VR 505 at 509
- The comparison of a tattoo in a bank photograph with a tattoo worn by the accused was a matter for the jury, not a non-expert police officer: *R v Williams* (1993) 11 CRNZ 34
- The defendant's transport did first protrude across and then cross, the centre line of the road because the trailer did not follow the prime-mover in taking the curve: *Clarke v Ryan* (1960) 103 CLR 486 [8.20].

Modern formulation

You would be pleased to note that a more flexible formulation of the rule has been brewing in Australia, England and Canada in these progressive times: Instead of the focus being upon whether a matter is within the ken or ordinary experience of the trier of fact and therefore "unnecessary", the question is asked: would expert evidence be useful to the determination of a matter in issue?

This usefulness criterion strikes me as a lot more practical than the traditional formulation. It views the expert witness and the judge as individuals working together to solve a problem, rather than playing a silly game where counsel asks the expert witness to state something which is bleedingly obvious which only serves to irritate the judge and runs the risk of being struck out on the grounds of common knowledge. Moreover, as is the case with the ultimate issue rule, much evidence is accepted in practice which would breach the traditional formulation of the common knowledge rule.

Here are some of Freckleton & Selby's examples which may help to indicate for you the boundaries of the common knowledge rule, albeit that they are mainly criminal cases involving medical or scientific evidence, not strictly within the realms of your fields of expertise, but, for what it is worth:

Expert evidence is not permitted on whether a person is intoxicated by alcohol, but is on whether a person is a drug addict (*R v Collins* (1976) 12 SASR 501) or whether bongos are used in the consumption of marijuana: *R v Barker* (1988) 34 A Crim R 141.

Similarly the effects of stress have been held to be within the ken of juries (*R v McEndoo* (1981) 5 A Crim R 52, but mental illness generally and the experience of victims of domestic violence have been held to be matters on which triers of fact require assistance: *R v Runjanjic* (1991) 56 SASR 114).

3. Area of Expertise

The third rule is the unresolved "area of expertise" rule. This is an exclusionary rule: if a particular subject matter is not within your field of expertise, you may not be able to give evidence on it. However it is a rule which is still to be resolved in Australia. The issue is whether the rule can be used to completely exclude areas that are not defined as ones of expertise, regardless of the expert's skills and training. Only time will tell how this rule develops, but you will see at the moment it is left to the judge's discretion.

4. Ultimate Issue

I turn now to the fourth rule for today, which is another exclusionary rule and is known as the "ultimate issue" rule. The rule serves to prevent witnesses from giving evidence about a matter, which is an "ultimate issue" in the case.

In practice this cryptic concept of "ultimate issue" is generally taken to refer to the central question which is the responsibility of the judge or jury to determine - an important issue of fact or law: *Joseph Crosfield & Sons Ltd v Techno-Chemical Laboratories Ltd* (1913)29 TLR 378.[10.10]

Judges, and I plead guilty in this respect, have had a lot of things to say about this rule in an effort to stop expert witnesses giving an opinion like "he is guilty of this offence" if that be the issue in dispute. This is because, (as Freckleton & Selby set out in the following 11 arguments which do overlap):

- (1) such evidence would involve unstated assumptions as to either disputed facts or propositions of law;
- (2) it would lead to a plethora of opinions by persons claiming to be experts;
- (3) it can function as advocacy in the guise of expert opinion;
- (4) it might trespass on the court's domain;
- (5) it would usurp the functions of the court or overwhelm the duty of the tribunal of fact to make up its own mind;
- (6) it might result in attornment to the opinion of the expert, especially if cross-examination is not effective in making the expert accountable;
- (7) evidence about an issue is not a matter for non-legal evidence, nor a recognised field of "specialised knowledge" (*Lipovac v Hamilton Holdings Pty Ltd* (unreported, ACT SC, 13 September 1996) per Higgins J at p. 106;
- (8) it goes beyond witnesses' areas of expertise (*Lipovac v Hamilton Holdings Pty Ltd* (unreported, ACT SC, 13 September 1996) per Higgins J at p. 106; and
- (9) it would be confusing to the tribunal of fact and would be unhelpful;
- (10) expert evidence is apt to be misunderstood and if on the ultimate issue may distort the fact-finding process;
- (11) special instructions to the jury may not remedy the prejudice of expert evidence.[10.10]

A tip for legal practitioners is this: try to get your expert witnesses to hold back from trespassing upon what has traditionally been regarded as the domain of the court - drawing the ultimate inference. Judges like to be presented with the facts and figures, and then allowed to be able to make the final conclusion themselves.

"Judges like to be presented with the facts and figures, and then allowed to be able to make the final conclusion themselves."

5. Basis Rule

The issue briefly stated is that expert witnesses should provide the basis for their evidence if it exists. The difficulty with this one is that expertise is not always gleaned from conducting experiments by one's self, but from talking to other experts about their expertise. And that means that all experts inherently employ some hearsay when they form their views.

The New Practise Direction

Now this takes us to where we are today. You as an expert witness may be called to write a report which will be tendered as evidence in the Supreme Court. The legal practitioner who requests your involvement must show you the New Practice Direction issued by the Supreme Court of the ACT on Expert Evidence which states:

Where a party to civil proceedings commissions a report from an expert, being a report to which Division 8 of Order 39 will apply, the party shall provide to the expert a copy of this Direction and draw his or her attention to the Schedule which contains a code of conduct. An expert's report shall not, without leave of the Court, be used in court unless the report contains an acknowledgment by the expert witness that he or she has read the code and agrees to be bound by it.

This Practice Direction does not apply to any medical practitioner who has treated the plaintiff.

Note: The code of conduct is in terms identical to that contained in Schedule K of the NSW Supreme Court Rules, and is the form that has been required in all reports tendered by expert in litigation in New South Wales superior courts since 2000.

Schedule

Expert Witness Code of Conduct

Application of Code

1. This code of conduct applies to any expert engaged to:
 - a. provide a report as to his or her opinion for use as evidence in proceedings or proposed proceedings; or
 - b. give opinion evidence in proceedings or proposed proceedings.

General Duty to the Court

2. An expert witness has an overriding duty to assist the court impartially on matters relevant to the expert's area of expertise.
3. An expert witness' paramount duty is to the court and not to the person retaining the expert.
4. An expert witness is not an advocate for a party.

The Form of Expert Reports

5. A report by an expert witness must (in the body of the report or in an annexure) specify:
 - a. The person's qualifications as an expert;
 - b. The facts, matters and assumptions on which the opinions in the report are based (a letter of instructions may be annexed);
 - c. Reasons for each opinion expressed.
 - d. If applicable - that a particular question or issue falls outside his or her field of expertise;
 - e. Any literature or other materials utilized in support of the opinions; and
 - f. Any examinations, tests or other investigations on which he or she has relied and identify, and give details of the qualifications of the person who carried them out.

6. If an expert witness who prepares a report believes that it may be incomplete or inaccurate without some qualification, that qualification must be stated in the report.

7. If an expert witness considers that his or her opinion is not a concluded opinion because of insufficient data or for any other reasons, this must be stated when the opinion is expressed.

The Practice Direction and Schedule containing the Code of Conduct is fairly self explanatory. If you are writing a report you need to

mention in that report that you have read the Direction and Code and agree to be bound by it.

The Schedule applies whether you are giving oral or written evidence and is designed to move expert witnesses away from the paid partisan culture of old. Experts must now conduct themselves as having an overriding duty to the Court.

I hope my presentation has assisted your understanding of the new role of expert witnesses from the judicial perspective.

CHIEF JUSTICE TERENCE HIGGINS
Supreme Court of the ACT, Canberra

Footnotes:

1. Paper by the Hon. Justice AR Abadee, RFD, Supreme Court of NSW, "The Expert Witness in the New Millennium", delivered to the General Surgeons Australia, 2nd Annual Scientific Meeting - 2 September 2000.
2. Freckleton & Selby: *Expert Evidence*, The Law Book Company Limited, Sydney 1993 at [6.20].
3. b A.
4. unreported, Qld Court of Criminal Appeal 22 September 1988.
5. [2000] FCA 1463.
6. [ibid].
7. Freckleton, L, Reddy P and Selby, H., "Australian ; judicial Perspectives on Expert Evidence: An Empirical Study", The Australian Institute of Judicial Administration Incorporated, Victoria, 1999, pip 70-72.
8. *Stockland (Constructors) Pty Ltd v Coombs* f2004] NSWSC 323.

An expert's report shall not, without leave of the Court, be used in court unless the report contains an acknowledgment by the expert witness that he or she has read the code and agrees to be bound by it.

NOAH IN 2005

In the year 2005, the Lord came unto Noah, who was now living in Australia, and said,

"Once again, the earth has become wicked and over populated and I see the end of all flesh before me. Build another Ark and save two of every living thing along with a few good humans."

He gave Noah the blueprints, saying *"You have six months to build the Ark before I will start the unending rain for 40days and 40nights"*.

Six months later, the Lord looked down and saw Noah weeping in his yard..... but no ark.

Noah, he roared, *"I'm about to start the rain! Where is the ark?"*

"Forgive me, Lord," begged Noah. *"But things have changed. I needed a building permit. I've been arguing with the inspector about the need for a sprinkler system.*

My neighbours claim that I've violated the neighbours zoning laws by building the ark in my yard and exceeding the height limitations. We had to go to VCAT for a decision.

The electricity companies demanded a bond be posted for the future costs of moving power lines and other overhead obstructions, to clear the passage for the ark's move to the sea. I argued that the sea would be coming to us, but they would hear nothing of it..

Getting the wood was another problem. There's a ban on cutting local trees in order to save the spotted owl. I tried to convince the environmentalists I needed the wood to save the owls. But no go. When I started gathering the animals, I got sued by an animal rights group. They insisted that I was confining wild animals against their will.

As well they argued the accommodation was too

restrictive and it was cruel and inhumane to put so many animals in a confined space.

Then the EPA ruled that I could not build the Ark until they had conducted an environmental impact study on your proposed flood.

I'm still trying a complaint with the human rights commission on how many minorities I'm supposed to hire for my building crew.

Also, the Trades Unions says I can't use my sons. They insist I have to hire only union workers with Ark building experience.

To make matters worse, the Tax Office seized all my assets, claiming I was trying to leave the country illegally with endangered species.

So, forgive me Lord, but it would take at least ten years for me to finish this Ark."

Suddenly the skies cleared, the sun began to shine, and a rainbow stretched across the sky.

Noah looked up in wonder and asked, *"You mean, you're not going to destroy the world?"*

"No" said the Lord. *"The government beat me to it."*



MEETINGS 2005

The remaining meetings of the ASBC for the year are:

August 23rd Dinner Meeting---Tudor
 October 26th Dinner Meeting---Tudor
 December 7th Partners Night (TBA)

YOUR DETAILS

Have your contact details changed? If so please advise us:-

Phone: 03 9898 8760

Fax: 03 9898 4744

Email: info@asbc.asn.au

Post: ASBC, C/- P.O. Box 320, Box Hill Vic. 3128

SUBMISSIONS TO ASBC NEWS

If you have any articles that may be of interest to other members, they may be reprinted from other publications, or if you have the writing bug, please write about your experiences. All submissions to the Editor, Robert Quick:

Email: rquick@bigpond.net.au

Fax to 03 9537 2339

Post to: ASBC Newsletter
 C/- Robert Quick
 307 Beaconsfield Parade
 Middle Park Vic. 3206

The deadline for submissions to be included in the next newsletter (July) is:

Tuesday 27th September, 2005



What's
 wrong
 with this
 picture?

MEMBER PROFILE



ROB LEES

(Current Secretary of
 the Society)

1. *When did you join the ASBC ?*
 March 2000
2. *How long have you been a building Consultant?*
 Started working part-time as a consultant in 1997.
3. *What aspects do you specialise in ?*
 I think of myself more as a generalist—jack of all trades and master of none. The majority of my work involves preparing reports for VCAT.
4. *What has been the highlight of your period as a building consultant?*
 A County Court hearing where my clients had a good win against Archicentre.
5. *What is the funniest situation that has occurred to you as a building consultant?*
 The look on a home owner's face when I opened the ensuite cupboard to find a bong and a pair of handcuffs!
6. *Do you believe that the building consulting industry needs improvement? If so in what way?*
 I am a strong believer that consultants should be registered and they should enjoy the same legislative recognition afforded to other building professionals.
7. *What is your family situation ?*
 I am married with three children and two kelpies. Robyn my wife is a physiotherapist (and no, I don't get a lot of massages). Jess, (22) is studying Myotherapy at RMIT, Andrew (20) has moved to Sydney this year to study drama at NIDA and Steven (16) is in Year 11.
8. *What do you do for relaxation ?*
 I enjoy bush camping. I also like paddling my kayak on the Yarra.
9. *Do you have any hobbies or play any sport ?*
 I started playing hockey this year after a 33-year break, but my pre-season training was a bit under-done and I now have some Achilles problems.
10. *Do you have a favourite restaurant ?*
 Any good Italian restaurant.